

MT LEGISLATIVE HISTORY

Chapter 323 1973

Bill (H) 548 S _____

Original bill & hist. C

H. Committee on State Administration

S. Committee on State Administration

Hearing Date(s) Feb 10 ✓ C

Hearing Date(s) Feb 28 ✓ C

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Date Out _____ C

_____ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Note: The Revision Public Employees' Retirement Act Comment, Chapter 15 through Chapter 25, appears as an exhibit in both chambers. For the sake of economy it was photocopied only once.

STATE ADMINISTRATION COMMITTEE

February 10, 1973

The State Administration committee meeting was called to order this date with Chairman Brand presiding. All members were present with the exception of Rep. Burnett, Gunderson, Towe, and Ulmer.

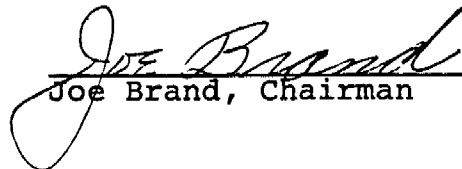
HB 548 was before the committee for consideration. Rep. Bardanouve, sponsor, presented the bill to the committee. Mr. Lawrence Nachthiem explained the bill in detail and proposed amendments. Others testifying as proponents were Mr. Cannon and Mr. George Hammond. There were no opponents. Prepared statements are attached.

The following actions were taken on bills before the committee:

HB 548...Rep. Menahan moved HB 548 DO PASS. The motion passed unanimously.

HB 447...Rep. Bardanouve moved HB 447 DO NOT PASS. The motion passed with Rep. Greely, Menahan, and Brand voting NO.

There being no further business, the meeting adjourned.


Joe Brand, Chairman

jb

NAME Francis B. Danane 548 BILL No.

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT? _____

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME

BILL No.

ADDRESS

DATE

WHOM DO YOU REPRESENT?

SUPPORT?

Yes

OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

I believe this bill would apply directly to property in the future. As the law now stands some retention for the future is possible. I have no choice if this were amended it would be a direct. I believe it would be a good idea to have a law that would be a law.

We should also consider the fact that the law would be a law that would be a law. One of the things that I believe is that the law would be a law that would be a law. I believe that the law would be a law that would be a law.

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WILLIAM A. BAILEY, F.S.A.
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ANDREW C. LANG, F.S.A.
LEONARD P. J. LEONG, F.S.A.
D. ALAN LITTLE, F.S.A.
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DENIS J. SULLIVAN, F.S.A.
ROBERT C. TOOREY, F.S.A.
GERALD G. TOY, F.S.A.
RICHARD A. WINNENWENDER, F.S.A.

January 18, 1973

Retirement Board
Montana Public Employees'
Retirement System
1712 Ninth Avenue
Helena, Montana 59601

Gentlemen:

We have been requested to determine the fiscal impact of five proposed changes in the benefit provisions of the Montana Public Employees' Retirement System. The proposals, as we understand them, are described below:

- (1) Provide that members may retire after completing thirty years of creditable service regardless of their age. The retirement allowances paid to such members would be subject to no actuarial reduction other than the usual reduction applicable when an optional form, such as a joint and survivor annuity, is elected.
- (2) It is proposed that all members terminating with less than ten years of service be refunded their accumulated employee contributions with interest. The law currently provides that only the accumulated employee contributions without interest are refunded to such members.
- (3) Provide a cost-of-living increase for retired members and beneficiaries similar to that provided in 1971 but based upon the 1972 rather than 1970 average consumer price index. For members retiring prior to December 31, 1971, their benefits would be increased by half the increase in the average annual consumer price index from 1970 to 1972, or approximately 3.85%.
- (4) Members are currently granted credit for military service which interrupts their state service, provided that employee contributions are paid for the period concerned. It is proposed that credit be given for up to five years of military service which did not interrupt state service (e.g., military service prior to joining PERS). Military service of this type would have to be "validated" before credit would be established. To validate his military service a member would have to make employee contributions to the system at double the normal rate (11.50% of salary rather than 5.75%)

Retirement Board
Page Two
January 18, 1973

of salary) beginning at the completion of ten years of state service or, for current members with more than ten years of service, within some specified period of time from the date the provision is adopted. For each month the member contributes at the higher rate one month of his military service would be validated, to a maximum of five years. Election to make these special contributions would be optional with the employee but a decision not to contribute could not be changed after the eleventh year of service is begun.

- (5) Finally, it is proposed that the old formula service retirement benefit detailed in Sections 68-901 (a) through (f) be eliminated for members entering PERS after the effective date of the first four proposals. The service retirement allowance for these new members would be calculated as one sixty-fifth of final compensation times the total years of credited service.

The first four changes would increase the costs of the system, but the fifth change would produce a cost savings in future years.

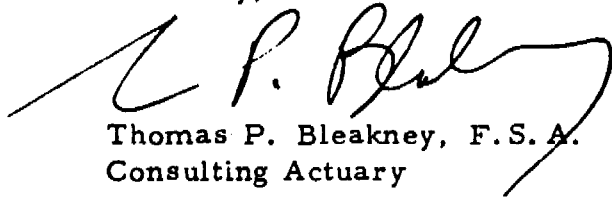
Proposals 1 and 4 are, by their nature, not amenable to precise cost estimates. We have, however, been able to determine a range of costs for these proposals within which we expect the true cost to fall. The cost of permitting retirement after thirty years of service is difficult to estimate because the experience of the system cannot be used as a guide to anticipate the proportion of eligible members who would take advantage of the opportunity to retire under this provision, because members have never had this option before. The cost of granting credit for prior military service is similarly difficult to estimate because we have no accurate statistics as to the military service of the system's members and no experience by which to determine how many members with prior military service would choose to validate that service by making additional employee contributions. However, a reasonable upper bound for this cost can be determined after considering the range of costs which may be expected. We conclude that, according to the actuarial assumptions described in the June 30, 1972 valuation report, the funding of the system will not be adversely affected if all five proposed changes are made. The cost savings produced by the fifth proposal are calculated to be sufficient to offset the costs of the first four proposals, taking into account the expected range of these costs.

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Retirement Board
Page Three
January 18, 1973

Please let me know if I may be of further assistance in this matter.

Sincerely,



Thomas P. Bleakney, F.S.A.
Consulting Actuary

TPB:lw

NAME LAWRENCE P. NACHHEIM BILL No. 548
ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT? P.E.R.S.

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Recommended Amendments to House Bill 548

Amend in Section 5, subsection (4), page 9, line 2, by striking the words "who are not employees" and adding the words "unless written contract specifies the creation of an employer-employee relationship for purposes of retirement coverage under the public employees retirement system act".

Amend in Section 5, subsection (8) page 10, line 6, by striking the word "support" after the word systems and adding the word "supported".

Further amend in Section 5, subsection (8), page 10, line 17 by striking the figures "68-1101" after the word "section" and add the figures "68-2301".

Amend in Section 22, subsection (3), page 23, line 20 by striking the words and figures "section and section 68-1307" after the word "this" and adding the word "act".

Amend in Section 36, page 33, line 15, by striking the word "weekly" and adding the word "periodic".

Amend Section 39, page 36, line 5, by striking the figures "68-103" after the word "section" and adding the figures "68-1503".

REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

Chapter 15 (Old Chapter 1)

SECTION	CHANGE	REASON
68-101 (Old)	Amended	
68-1501 (New)		To include citation of act formerly 68-1312.
68-1502 (New)	Added	Section 68-201 put in proper sequence.
68-102 (Old)	Revised and Rewritten	Eliminate unnecessary definitions and consolidate and clarify existing definitions.
68-1503 (New)	"	
	(Old)	
(b) "Contracting City"		Terms eliminated and replaced by Term "Contracting Employer" - New (x)
(c) "Contracting County"		
(d) "Public Agency"		
(e) "Contracting Public Agency"		
(ab) "Death Allowance"		Omit-obsolete language
(l) "Prison Employee"		Omit-obsolete language
(f) "State Employee"		Replaced by "Employee"
(m) "Prior Service"		Revised - New (h) - Same Meaning
(n) "Continuous Service"		Omit-obsolete language
(q) "Compensation Earnable"		omit-obsolete language

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PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

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Chapter 16 (Old Chapter 2)

SECTION	CHANGE	REASON
68-201 (01d)	Renumbered	Now Section 68-1502 in proper sequence
68-202 (a,b,c) (01d)	Amended	
68-1601 (a) (New)		Omit obsolete language and state membership reporting procedure.
" (b,c) (New)		To reflect definition changes of 68-1503.
68-203 (a-k) (01d)	Renumbered	Now Section 68-1602
68-1602 (a) (New)		Language Clarification
(f) (New)	Substantive Change.	Establish July 1, 1975 membership deadline for persons who have previously chosen not to become members of P.E.R.S. Also includes payment of accrued interest as present statutes not equitable to members who have participated since 1945.
(h) New		To reflect changes of 68-1503
(i) New		Added "court commissioners" to present statutes.
* 68-1603 (New)	Added	Replaces and clarifies Section 68-404 in proper sequence and abbreviated form.
68-1604, 1605 & 1606 (New)	Added	Replaced and clarifies Section 68-501 (f) in proper sequence and abbreviated form.
68-1605 1 (New)	Substantive Change	Allows new qualifications under which a member may receive credit on previously excluded military service.
68-1607 & 1608 (New)	Added	
	Substantive Change.	Replaced in abbreviated and clarified language Section 68-501 (g) and (j) while placing time limitations on crediting pension service. (Time presently spent searching old records for a few inequitable to majority of membership). Also requires interest payments for funds not currently deposited (Paybacks without interest are a deterrent to funding by allowing some members the use of their contributions up until their point of retirement to the disadvantage of majority of the membership).

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PUBLIC EMPLOYEES' RETIREMENT ACT
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Chapter 17 (Old Chapter 3)

SECTION	CHANGE	REASON
68-301 (a-d) (Old) 68-1701 (a-c) (New)	Amended	Now 68-1701 (a-c) 68-1702 & 68-1703 Clarification of language and removal of redundancy by use of common definition "contracting employer" Section 68-1503 (x)
68-1702 (New)		Restatement and clarification of former section 68-301 (d)
68-302 (Old) 68-303 (Old)	Repealed	Not needed under new definition: 68-1503 (x) and (y).
68-1703 (New)		Restatement and clarification of former Section 68-301 (d) Section 68-601, Section 68-603, properly sequenced.
68-1704 (New)		Restatement and clarification of latter portion of former section 68-603.

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PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

CHAPTER 4 (REPEALED AND REPLACED)

Entire chapter replaced in Sections 68-1603, 68-1701, 68-2504 and
68-2512.

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PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

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CHAPTER 18 (OLD CHAPTER 5)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-501 (a thru e)(old)	Amended	Restatement of Section 68-501 (a thru e)
68-1801 (new)		Eliminating all reference to specific calculations and record keeping in order to operate more efficiently and operate within the central accounting system. Reorganization changes also reflected.
68-1802 (new)		
68-1803 (new)		
68-501 (f & g) (old)	Omitted	Incorporated in Section 68-1601 and 68-1605.
(h) (old)	Omitted	Incorporated in Section 68-1608
(i) (old)	Omitted	Incorporated in Section 68-1801
(j) (old)	Omitted	Incorporated in Section 68-1801
(k) (old)	Omitted	Incorporated in Section 68-1803-1804
68-1802, 1803 (new)	Added	Restatement and breakout by section of statute previously lost in long detail of Section 68-501.
68-1804 (new)	Added	Definition of actuary and his responsibilities to retirement system.

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REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

CHAPTER 6 (REPEALED AND REPLACED)

Entire chapter replaced in Section 68-1703 and 68-1704 in proper
sequence.

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PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

CHAPTER 19 (OLD CHAPTER 7)

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<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-701 (old)	Amended	Reflects reorganization changes.
68-1901 (new)		Responsibilities of Board of Investments and the Department of Administration.
68-702 (old)	Amended	
68-1902 (new)		Restatement of Sections 68-702, part of 68-704 and 68-705.
68-1903 (new)		Restatement of Section 68-706 to correspond with definition changes.
68-703 (old)	Repealed 1967	
68-704 (old)	Amended	Restated in Section 68-1902
68-705 (old)	Repealed	Not needed with new definition of "employer" Section 68-1503 (y)
68-706 (old)	Amended	Restated in Section 68-1903
68-707 (old)	Amended	
68-1904 (new)	Substantive change	Restatement of Section 68-707 but making \$1.00 annual membership liability of employer rather than employee for easier administration.
68-708 (old)	Amended	
68-1905 (a) (new)	Substantive change	Payment of interest on all refunds.
(b) (new)		Restatement of Section 68-708
68-709 (old)	Amended	
68-1906 (new)		Restatement of Section 68-709
68-710 (old)	Amended	
68-1907 (new)		Restatement of Section 68-710

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PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

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CHAPTER 20 (OLD CHAPTER 8)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-801 (old)	Amended	
68-2001 (new)	Substantive change	(a) Restatement of Section 68-801 (a), Section 68-802 and Section 68-901, first paragraph and providing for retirement after 30 years regardless of age without actuarial reduction. (b) Restatement of Section 68-801 (a)
68-802 (old)	Amended	Restated in Section 68-2001
68-2002 (new)		Defines eligibility requirements for service and early retirement
68-2003 (new)	Substantive change	Abbreviation and clarification of Section 68-901 (a thru g). Does away completely with old money purchase plan of period before July 1, 1967 for all employees hired after passage of this act.
68-2004 (new)		Restatement of Section 68-901 (h) in proper sequence.
68-2005 (new)		Restatement of Section 68-901 (d) in proper sequence.

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PUBLIC EMPLOYEES' RETIREMENT ACT
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CHAPTER 21 (OLD CHAPTER 9)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-901 (old)	Amended	Replaced in Sections 68-2001, 68-2003, 68-2005, 68-2101 thru 68-2104
68-2101 (new)		Refers to disability retirement only - restatement of Section 68-901 (a thru m)
68-2102 (new)	Substantive change	Defines "injury" in form similar to workmens' compensation act.
68-2103 (new)		Replaces Section 68-901 (a thru m)
68-2104 (new)		
68-902 (old)	Repealed	This law was operative only on July 1, 1971.

REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

CHAPTER 22 (OLD CHAPTER 10)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-1001 (old)	Amended	Replaced in Sections 68-2201 and 68-2204
68-2201 (new)		Restatement of Sections 68-1001, 68-1003, and 68-1004
68-1002 (old)	Amended	
68-2202 (new)		Restatement of Section 68-1002
68-1003 (old)	Amended	Replaced in Section 68-2201
68-1004 (old)	Amended	Replaced in Section 68-2201
68-1005 (old)	Amended	Replaced in Section 68-2203 with change
68-2203 (new)	Change	Restatement of Section 68-1005 with a new Option 1, new Option 4 and Option 4 replaced by new Option 5. Under old law Option 4 would have allowed member to choose any of the new options as actuarial equivalents.
68-2204 (new)		Restatement of Section 68-1001 (c)

REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
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CHAPTER 23 (OLD CHAPTER 11)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-1101 (old)	Rewritten	Restatement and clarification of language
68-2301 (new)		in Section 68-1101 (a thru f)
68-2302 (new)		
68-2303 (new)		
68-2304 (new)		
68-2305 (new)		

REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

CHAPTER 24 (OLD CHAPTER 12)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-1201 (a thru c)(old) (d) (old)	Rewritten Repealed	Replaced in Section 68-2401 (a, c & d) Obsolete
68-2401 (new)		Restatement of Section 68-1201 with language clarification
68-2402 (new)		Restatement of Section 68-1201 (b)

REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

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CHAPTER 25 (OLD CHAPTER 13)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-1301 (old)	Repealed Substantive change	Subrogation is unenforceable by the administration without the addition of a large field force and inequitable to the member who could lose needed income to the trust fund.
68-1302 (old)	Rewritten	Restated in Section 68-2501
68-2501		Restatement of Section 68-1302
68-1303 (old)	Rewritten	Restated in Section 68-2502
68-2502		Restatement of Section 68-1303
68-1304 (old)	Repealed	Obsolete
68-1305 (old)	Rewritten	Restated in Section 68-2503
68-2503 (new)		Restatement of Section 68-1305
68-1306 (old)	Rewritten	Restated in Section 68-2204
68-1307 (old)	Rewritten	Restated in Section 68-1605, 68-1904, and 68-2505
68-1307 (a) (old)	Rewritten	Restated in Section 68-1605
68-1307 (b, c & d)	Rewritten	Restated in Section 68-1904 and 68-2505
68-2504 (new)		Restatement of Section 68-1307 (a), (b) & (c)
68-2505 (new)		Restatement of Section 68-1307 (a) & (d)
68-1308 (old)	Repealed	All compensation has been used since 7-1-55
68-1309 (old)	Rewritten	Restated in Section 68-2506
68-2506 (new)		Restatement of Section 68-1309
68-2507 (new)		Establishes due dates for submission of reports to the retirement system.

REVISION
PUBLIC EMPLOYEES' RETIREMENT ACT
COMMENT

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CHAPTER 25 (OLD CHAPTER 13) (Continued)

<u>SECTION</u>	<u>CHANGE</u>	<u>REASON</u>
68-1310 (old)	Rewritten	Restated in Section 68-2507 (b)
68-1311 (old)	Rewritten	Restated in Section 68-2508
68-2508 (new)		Restatement of Section 68-1311
68-1312 (old)	Rewritten	Restated in Section 68-1501
68-1313 (old)	Rewritten	Restated in 68-2509
68-2509 (new)		Restatement of Section 68-1313
68-1314 (old)	Rewritten	Restated in Section 68-2505 (b)
68-1315 (old)	Repealed	Was a duplicate of Section 68-1311
68-1316 (old)	Rewritten	Restated in Section 68-2510
68-2510 (new)		Restatement of Section 68-1316
68-1317 (old)	Rewritten	Restated in Section 68-2511 (a & b)
68-1318 (old)	Rewritten	Restated in Section 68-2511 (c)
68-1319 (old)	Rewritten	Restated in Section 68-2511 (b)
68-1320 (old)	Rewritten	Restated in Section 68-2511 (c)
68-2511 (new)		Restatement of Sections 68-1317, 68-1318 and 68-1319
68-2512 (new)		Restatement of provision in Section 68-402
68-2513 (new)	Substantive change	Cost-of-living increase to retired members reflecting the period from 1971 to 1972. This is an update of the increase granted 7-1-71.
68-2514 (new)		All members prior to the effective date of this act retain the benefits prior to this act.

Codification and General Revision
Of The Laws
Of the Public Employees' Retirement System

This is an explanation of the proposed new Public Employees' Retirement Act. This revision is required to put the act into sequential order, eliminate obsolete and unnecessary language to the end of making this act more understandable to the P.E.R.S. membership and for better administration of the majority of the membership.

The initial attempt to revise this act was by the use of amendments to the present act but there was so much to amend that the mechanics of repealment became the simplest method.

The bill is primarily a rework of the present statutes, however, there are some changes and additions as follows:

Section 68-1602 (4), page 9, line 2, is included in amendments.

Section 68-1602 (6) page 9, line 6, is a substantive change placing a July 1, 1975 deadline for present employees who have elected to remain out of P.E.R.S.

Section 68-1605 (1) page 13, line 13, is the military service provision discussed in H. B. 447.

Section 68-1607, page 14, line 9, through Section 68-1608 on next page again reflects the July 1, 1975 deadline for qualifying previous service.

Section 68-1801, 1802 and 1803 commencing on page 20, line 17 and ending on page 22, line 20 restates the duties of the board but eliminates specific reference as to calculations and records keeping. This also increases the per diem of public board members from \$10.00 per day to \$25.00 per day.

Section 68-1804, page 22, line 23 is a new section defining the qualifications of the board actuary.

Section 68-1904, page 25, line 23 is a substantive change which moves the liability of the \$1.00 per membership fee from the employee to the employer which is much more easily administered.

Section 68-1905, (2) page 27, line 4 is a substantive change effective July 1, 1974 to allow interest payments on all refunds. This measure was included in H. B. 447.

Section 68-2001 (1) page 28, line 21, is a substantive change permitting retirement with 30 years of service without actuarial reduction. (H. B. 447)

Section 68-2003, page 29, beginning line 14 and ending on line 25. All reference to the money purchase plan has been removed from this section. This is the funding provision for the benefit increase considered in H. B. 447. Under the employment contract concept this would only effect members employed initially after July 1, 1973.

Section 68-2102 (3-5), page 31, beginning on line 9 and ending on line 18 is a substantive change. The definition for disability has been modified to conform with the definition of "injury" under the Workmen's Compensation Act. The reason for this is there is very little case law in Montana concerning disability under the retirement acts where the disability program under Workmen's Compensation has numerous cases which can provide some basis for possible legal determinations.

Section 68-902 of the present act was repealed as it was operative only on July 1, 1971.

Section 68-2203, page 36 beginning line 12, and ending page 37, line 8 is a change from the present act but it is only a format change as (e) option 5 provides for the actuarial equivalents.

Section 68-1301 of the present act was repealed and not replaced. It deals with subrogation which without a number of field representatives is almost unenforceable. It is also inequitable to detract from insurance settlements that are granted disabled members who could lose needed income to the retirement trust.

Section 68-2507, page 47, line 4 is new and creates a deadline for filing of regular monthly reports to the retirement system.

Section 68-2513, page 50, commencing on line 7 is a provision to update the cost of living increase to retirees granted July 1, 1971 to July 1, 1973. This also appears in H. B. 447.

NAME M. J. McEneaney BILL No. 548
ADDRESS 910 Breckenridge DATE 2-10-73
Helena, Montana
WHOM DO YOU REPRESENT? Board of Examiners

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Thomas E. Schneider BILL No. 548
ADDRESS Box 716 DATE 2-10-73

WHOM DO YOU REPRESENT? The Montana Public Employees Assn.

SUPPORT? ☒ OPPOSE? ☐ AMEND? ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

M I N U T E S

Senate Committee On STATE ADMINISTRATION

The twenty-fourth meeting of the Senate Committee on State Administration was called to order by Chairman David F. James at 8:05 a.m. on Wednesday, February 28. Roll call was taken, and a quorum present.

HOUSE BILL NO. 455: Representative Harold Durkee, sponsor of the bill, was present to give an explanation of it to the committee. Also testifying in favor of the bill were: Ron Near, Administrator of the Finance Division of the Department of Administration; and Morris Bursett, from the Legislative Auditor's Office.

HOUSE JOINT RESOLUTION NO. 17: Mr. James A. Croft gave a thorough explanation of his reasons for wanting a change in the state flag of Montana. He also presented written material for the committee members. Representative Haines, sponsor of the bill, gave a short presentation, as did Mr. Bob Durkee, representing the Veterans of Foreign Wars.

HOUSE BILL NO. 548: Representative Bardanoue Gave his explanation of the bill to the committee. Many people were present in favor of House Bill 548, and of those the following testified: Larry Nachtsheim, P.E.R.S.; Ross Cannon, M.P.E.A.; Stan Gerke, AFSCME and AFL-CIO; Robert Moch; and Bob Durkee, Veterans of Foreign Wars. Mr. Nachtsheim and Mr. Cannon submitted written statements for the committee members. There were no opponents present to the bill.

HOUSE JOINT RESOLUTION NO. 22: Representative Bardanoue also sponsored this bill, and gave his explanation to the committee. Also in favor of the bill were: Wally Stephens; and Larry Nachtsheim.

HOUSE BILL NO. 504: The sponsor of the bill, Representative Bob Lee, gave a short presentation. There were no other proponents or opponents present.

Senator Rosell made a motion that the committee recommend House Bill No. 504 BE CONCURRED IN. It was seconded by Senator Story, and carried unanimously. Chairman James appointed Senator Rosell to carry this bill when it came to the floor of the Senate.

Senator Rosell then made a motion that the committee recommend House Joint Resolution No. 17 BE CONCURRED IN. The motion was seconded by Senator Nees, and carried. Senator James stated that he would carry this bill in the Senate.

Senator Devine made a motion that the committee recommend House Joint Resolution No. 21 BE CONCURRED IN. The motion was seconded by Senator Rosell, and carried unanimously. Chairman James appointed Senator Devine to carry this bill on the Senate floor.

Senator Devine made a motion that the committee recommend House Joint Resolution No. 22 BE CONCURRED IN. It was seconded by Senator Rosell and carried unanimously. Senator Devine was also appointed to carry this bill through the Senate.

STATE ADMINISTRATION

Minutes, February 28, 1973

Page 2

Senator Rosell made a motion that the committee recommend House Bill 455 BE CONCURRED IN. The motion was seconded by Senator Devine, and carried unanimously. Senator Rosell was appointed to carry this bill.

Senator Devine made a motion that House Bill 548 BE CONCURRED IN by the committee. It was seconded by Senator Rosell, and carried unanimously. Senator James stated that he would carry this bill on the Senate floor.

OLD BUSINESS

Senator Sorenson reported to the committee on what he had learned concerning House Bill 397. Hollis Connors, State Treasurer, testified in behalf of the bill. Senator Story made a motion that the committee recommend House Bill 397 BE CONCURRED IN. It was seconded by Senator Bennett, and carried unanimously. Senator Sorenson was appointed to carry this bill in the Senate.

Senator Sorenson then made a motion that House Bill No. 22 be recommended to be HELD OVER until the second half of the 43rd Legislative Session in January of 1974. The motion was seconded by Senator Devine, and carried unanimously.

Senator Bennett reported to the committee what he had learned about House Bill 496. He stated that Senator Bertsche's bill, SB446, did cover Firemen, and suggested that the committee wait until action had been taken on the other before acting on House Bill 496.

Senator Devine made a motion that House Bill 344 BE CONCURRED IN BY the committee. It was seconded by Senator Story, and carried unanimously. Senator McDonald was appointed to carry the bill.

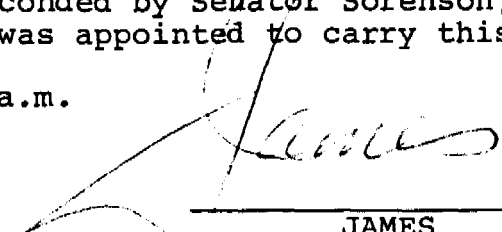
Senator Bennett made a motion that House Bill 147 BE NOT CONCURRED IN by the committee. He then gave an explanation of his motion to the committee members. The motion was seconded by Senator Story, and carried. Senator Bennett was appointed to carry this bill.

Senator Bennett then made a motion that House Bill 64 BE NOT CONCURRED IN by the committee. It was seconded by Senator Sorenson, and carried unanimously. Senator Sorenson was appointed to carry this bill.

Senator Story made a motion that House Bill 101 BE NOT CONCURRED IN by the committee. It was seconded by Senator Devine, and carried unanimously. Senator Story was appointed to carry this bill.

Senator Nees made a motion that the committee recommend House Bill No. 105 BE CONCURRED IN. It was seconded by Senator Sorenson, and carried unanimously. Senator Nees was appointed to carry this bill.

The meeting was adjourned at 10:30 a.m.


JAMES

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppo
Bardanne	Self - 548-HJR22	✓	
Near	Dept of Adm HB 455	✓	
Christine Gore	Dept of Commerce HB 548	✓	
John Meredith	" " " HB 548	✓	
James A. Becht	Self HJR 17	✓	
Frederick S. Jensen	Self H.B. 548	✓	
Bob Hunter	Self HB 548	✓	
Bob Durkee	VIEW 548-HJR17	✓	
Honorable Wines	Self 548-	✓	
C. H. Mann	MLPBA 548	✓	
R. L. Mock	DAV. SD. 548 HJR17	✓	
Stan Hale	AFSCME AFL-CIO	HB 548	
Harold Busch	State Highway	HB 548	
Ray F. Jezick	State Highway	HB 548	
Charles Tode	State Highway	HB 548	
Russell Crow	Am. Pub. Employees Assn	HB 548	
James Meredith	Self	HB 548	
Thomas Schneider	National Public Employees Assn	HB 548	
W. Ph. McQuinn	Board of Education	HB 548	
William G. Connor	State Treasurer	HB 397	
David G. Connor	Deputy State Treasurer	HB 397	
James H. Connor	Self	HB 548	
Rep. Bob Lee	Liquor Board -	HB 548	
Roger F. Griffin	M. P. E. A.	HB 548	
Theresa A. Jackson	Public Employees Assn	HB 548	
Herb Ballou	Self	HB 548	
E. C. Walenick	(Please leave prepared statement with Secretary)	HB 548	

BILL NO. HB504,548,455;
HJR 17,21,22.

NAME

REPRESENTING

Check One
Support Oppo

JACK STUART

SOCIAL & REHAB. SERVICES

48
5486

(Please leave prepared statement with Secretary)

CALVIN J. CROWE
FRED L. HILL
WILLIS K. PAULL
JOHN L. PREBIL
TED SCHWINDEN



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DEPARTMENT OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM DIVISION

1712 NINTH AVENUE
TELEPHONE: AREA CODE 406/449-3154
HELENA, MONTANA 59601

February 23, 1973

TO: Senate Committee - State Administration
Honorable David James, Chairman

Members of the Committee:

House Bill 548 is the result of over two years discussion and was a year in the drafting.

The original draft was put together by Mr. Thomas Bleakney, F.S.A. Milliman & Robertson, Inc. Seattle, Washington, the consulting actuary to the Board of Administration, Public Employees' Retirement System. He is nationally written having completed a book for the Wharton School of Business in October 1, 1972 on the subject of public retirement systems.

This draft served as the basis for an editing and rewriting project of the P.E.R.S. staff that took about 10 months. This draft was edited and reviewed by the P.E.R.S. staff, the board attorney and myself and we feel that it will answer many administrative problems as well as providing additional benefits to the presently 25,000 P.E.R.S. members active and retired.

The additional benefits are funded by the change to a standard formula for employees coming into covered service after July 1, 1973.

The Board actuary who completed an actuarial evaluation of the P.E.R.S. as of June 30, 1972 has stated that the increase in benefits and the standardization of the formula will compensate each other and not require additional funding.

The evaluation further stated that when the present step raises in employer contributions (Section 68-1307, R.C.M., 1947 - H.B. 548 68-2504 page 44 line 24) has reached the rate of July 1, 1975 the system will be on a 40 year funded basis.

Your consideration of this bill is appreciated.

Respectfully,

A handwritten signature in cursive script that reads "Lawrence P. Nachtsheim".

Lawrence P. Nachtsheim
Administrator

Amendments to House Bill 548

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Amend in Section 5, subsection (4), page 9, line 2, by striking the words "who are not employees" and adding the words "unless written contract specifies the creation of an employer-employee relationship for purposes of retirement coverage under the public employees retirement system act".

Amend in Section 5, subsection (8) page 10, line 9, by striking the word "support" after the word systems and adding the word "supported".

Further amend in Section 5, subsection (8), page 10, line 21 by striking the figures "68-1101" after the word "section" and add the figures "68-2301".

Amend in Section 22, subsection (3), page 23, line 24 by striking the words and figures "section and section 68-1307" after the word "this" and adding the word "act".

Amend in Section 36, page 33, line 20, by striking the word "weekly" and adding the word "periodic".

Amend Section 39, page 36, line 10 by striking the figures "68-103" after the word "section" and adding the figures "68-1503".

Codification and General Revision
Of The Laws
Of the Public Employees' Retirement System

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This is an explanation of the proposed new Public Employees' Retirement Act. This revision is required to put the act into sequential order, eliminate obsolete and unnecessary language to the end of making this act more understandable to the P.E.R.S. membership and for better administration of the majority of the membership.

The initial attempt to revise this act was by the use of amendments to the present act but there was so much to amend that the mechanics of repealment became the simplest method.

The bill is primarily a rework of the present statutes, however, there are some changes and additions as follows:

Section 68-1602 (4) page 9, line 2 was amended in the House State Administration Committee. The old statute had been the subject of several attorney general's opinions for the statute implied that there were independent contractors who were employees. To remove the gray from this section the amendment was put in stating requirements for participation in the retirement program by "independent contractors".

All other amendments in this bill were mechanical to correct language and cross references. (See attached)

Section 68-1602 (6) page 9, line 9, is a substantive change placing a July 1, 1975 deadline for present employees who have elected to remain out of P.E.R.S.

Section 68-1605.1, page 13, line 16 is a military service provision allowing the P.E.R.S. members upon completion of ten years of service to qualify one year of military service for each year of service in excess of ten years up to a limitation of five years by payment of contributions based on the compensation and contribution for the eleventh and succeeding years.

Example:

Individual with 12 years of state service at a \$10,000 salary in the 11th and 12th year could qualify 2 years of military service by payment of \$575.00 for each year. For retirement purposes he would then have qualified retirement service of 14 years.

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Section 68-1607, page 14, line 18, through section 68-1608 on next page again reflects the July 1, 1975 deadline for qualifying previous service.

Section 68-1801, 1802 and 1803 commencing on page 20, line 21, and ending on page 22, line 24 restates the duties of the board but eliminates specific reference as to calculations and records keeping. This also increases the per diem of public board members from \$10.00 per day to \$25.00 per day.

Section 68-1804, page 23, line 2, is a new section defining the qualifications of the board actuary.

Section 68-1904, page 26, line 2 is a substantive change which moves the liability of the \$1.00 per membership fee from the employee to the employer which is much more easily administered.

Section 68-1905, (2) page 27, line 8 is a substantive change effective July 1, 1974 to allow interest payments on all refunds.

Section 68-2001 (1) page 28, line 24, is a substantive change permitting retirement with 30 years of service without actuarial reduction.

Section 68-2003, page 29, beginning line 18 and ending on page 30, line 2. All reference to the money purchase plan has been removed from this section. Under the employment contract concept this would only effect members employed initially after July 1, 1973.

Section 68-2102 (3-5), page 31, beginning on line 13 and ending on line 22 is a substantive change. The definition for disability has been modified to conform with the definition of "injury" under the Workmen's Compensation Act. The reason for this is there is very little case law in Montana concerning disability under the retirement acts where the disability program under Workmen's Compensation has numerous cases which can provide some basis for possible legal determinations.

Section 68-902 of the present act was repealed as it was operative only on July 1, 1971. This was a cost of living provision.

Section 68-2203, page 36, beginning line 17 and ending page 37,

line 13 is a change from the present act but it is only a format change as (e) option 5 provides for the actuarial equivalents.

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Section 68-2204 page 38 beginning on line 6 and ending on line 19 is a substantive change. Additional language has been added on line 18 which provides that if a retiree returns to covered employment and works at least two years he will receive his initial benefit allowance plus any additional benefits enacted subsequent to his initial retirement on his additional service only.

Section 68-1301 of the present act was repealed and not replaced. It deals with subrogation which without a number of field representatives is almost unenforceable. It is also inequitable to detract from insurance settlements that are granted disabled members who could lose needed income to the retirement trust.

Section 68-2507, page 47, line 9 is new and creates a deadline for filing of regular monthly reports to the retirement system.

Section 68-2513, page 50, commencing on line 7 is a provision to update the cost of living increase to retirees granted July 1, 1971 to July 1, 1973. This amounts to a 3.869% increase for members on retirement prior to December 31, 1971 and a 1.649% increase for members retiring in 1972.

sons. Eligibility of organizations to receive the funds specified by this act shall be based upon standards and criteria promulgated by the department.

(5) The department is authorized to promulgate such rules and regulations as it may deem necessary or proper to carry out the provisions of this section.

Section 4. Federal funds as may be available are appropriated to the department for use in administering the provisions of this act.

Approved: March 15, 1973.

CHAPTER NO. 323

An Act for the Codification and General Revision of the Laws Relating to the Public Employees' Retirement System and Repealing Sections 68-101, 68-102, 68-201, 68-202, 68-203, 68-301, 68-302, 68-303, 68-401 through 68-405, 68-501, 68-601, 68-602, 68-603, 68-701 through 68-710, 68-801, 68-802, 68-901, 68-902, 68-1001 through 68-1005, 68-1101, 68-1201 and 68-1301 through 68-1320, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as "The Public Employees' Retirement System Act."

Section 2. There is a new section to be numbered 68-1501, R.C.M. 1947, which reads as follows:

68-1501. The purpose of this act is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship, or prejudice, be replaced by more capable employees, and to that end providing a retirement system consisting of retirement compensation and death benefits.

Section 3. There is a new section to be numbered 68-1502, R.C.M. 1947, which reads as follows:

68-1502. A retirement system is created and established to become effective July 1, 1945, and to be known as the public employees' retirement system.

Section 4. There is a new section to be numbered 68-1503, R.C.M. 1947, which reads as follows:

68-1503. Unless the context requires otherwise, in this act:

(1) "Retirement system" means the public employees' retirement system created by this act.

(2) "Head of department" means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares, approves and submits salary statements of its employees to the department of administration, state auditor and state treasurer for payment.

(3) "Member" means any person included in the membership of the retirement system set forth in section 68-1602 and not excluded in section 68-1603 or 68-2510.

(4) "Board" means the board of administration provided for in section 82A-210.

(5) "Employee" means any person employed by an employer in any capacity whatever and whose salary is paid either by warrant of the employer or from the fees or income of any department or agency of the employer. "Employee" means further any person deemed such pursuant to section 68-2510.

(6) "Retirement fund" means the public employees' retirement account in the agency fund.

(7) "Service" means employment of an employee, except as provided in sections 68-1604 and 68-1605.

(8) "Prior service" shall mean all service rendered as an employee of the state before July 1, 1945, and all service rendered as an employee of a contracting employer before July 1, 1947. Prior service includes all service rendered prior to July 1, 1945, as a member of the legislative assembly or lieutenant governor of the state of Montana.

(9) "Beneficiary" means the person so designated pursuant to section 68-2401.

(10) "Compensation" means remuneration paid out of funds controlled by an employer. The compensation of each member of the legislative assembly and the lieutenant governor of the state of Montana for any year shall be deemed to be that portion of the product of the daily compensation for such position multiplied by three hundred sixty (360), upon which such member elects to pay normal contributions during the year.

(11) "Final compensation" means a member's highest average annual compensation during any three (3) consecutive years of membership service.

(12) "Regular interest" means interest at the rate set from time to time by the board.

(13) "Normal contributions" means contributions required by members under this act and any optional contributions, made under the provisions of sections 68-1605 and 68-1906.

(14) "Additional contributions" means contributions by members under the provisions of section 68-1903.

(15) "Accumulated normal contributions" means the sum of all the normal contributions standing to the credit of a member's individual account without interest.

(16) "Accumulated additional contributions" means the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

(17) "Accumulated contributions" means the sum of accumulated normal contributions and accumulated additional contributions.

(18) "Pension" means payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting employers, from the funds of such contracting employers, as provided in this act.

(19) "Annuity" means payments for life derived from contributions made by a member as provided in this act.

(20) "Retirement allowance" means the periodic benefit payable following service, early or disability retirement.

(21) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables in use by the system.

(22) "Actuary" means the actuary retained by the board in accordance with section 68-1804.

(23) "Benefit" means the retirement allowance, survivorship allowance, death benefit or refund of accumulated contributions provided by this act.

(24) "Contracting employer" means any political subdivision or governmental entity which has contracted to come into the system.

(25) "Employer" means the state of Montana, its university or any of the colleges, schools, components or units thereof for the purposes of this act, or any political subdivision or governmental entity which has contracted to come into the system.

(26) "Membership service" means service with respect to which normal contributions and employer contributions are paid. A member of the legislative assembly and a lieutenant governor

of the state of Montana shall be credited with membership service for that portion of each year for which he pays normal contributions pursuant to section 68-1503 (10).

(27) "Survivorship allowance" means payments for life to the beneficiary of a deceased member as provided in title 68, chapter 23.

(28) "Creditable service" means the aggregate of membership service and prior service. A member employed on a part-time basis shall receive credit for a year of service for each fiscal year during which such member was employed throughout the year and was engaged in his duties the full amount of time he was required by his employment to be so engaged.

(29) "Employer contributions" means payments to the retirement fund from appropriations of the state of Montana pursuant to section 68-2504 and from contracting employers pursuant to the contracts between them and the board.

(30) "Written application" means a written instrument duly executed and filed with the board and containing all information required by the board, including such proofs of age as the board shall deem necessary.

(31) "Retirement" means withdrawal from active service with a retirement allowance granted under the provisions of this act.

(32) "Disability" and "incapacity for performance of duty" referred to herein as a basis of retirement, means disability of permanent duration or disability of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(33) "Fiscal year" means any year commencing with July 1 and ending June 30 next following.

Section 5. There is a new section to be numbered 68-1601, R.C.M. 1947, which reads as follows:

68-1601. (1) All employees shall become members on the first day of employment. Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

(2) Every employee who reenters service shall become a member unless he has had an original election of exemption from membership and his service was not interrupted by a break of more than one (1) month. A seasonal employee who has had an original election of exemption from membership will not be subject to the requirement regarding the break in service while continuing in his

original employment and employed on a seasonal basis, but upon termination of employment to accept new employment or absence of more than one (1) month in returning to original employment in any ensuing season, such a seasonal employee shall become a member of the retirement system upon reentry.

(3) Time during which an employee of a school district is absent from service during official vacation shall be counted as service in determining eligibility for membership under this act.

Section 6. There is a new section to be numbered 68-1602, R.C.M. 1947, which reads as follows:

68-1602. The following persons shall not become members of the retirement system:

(1) elective officers who have not filed with the board of administration written requests to become members; provided that any person so excluded from membership may later become a member by otherwise becoming an employee or by written request after a subsequent election to office; and provided further that if he shall affirmatively exercise the option, the contributions of the employer, because of his membership, shall be the same as they would have been had he not been so excluded;

(2) inmates of state institutions who are allowed compensation for such service as they are able to perform;

(3) persons in state institutions principally for the purpose of training, but who receive compensation;

(4) independent contractors unless written contract specifies the creation of an employer-employee relationship for purposes of retirement coverage under the Public Employees' Retirement System Act;

(5) employees serving in employment which does not exceed the equivalent of sixty (60) working days in any fiscal year;

(6) employees in service on July 1, 1945, or prior thereto who filed with the board of administration an election not to become members; provided, any person so excluded from membership by his own election may become a member by meeting the requirements of the balance of this subsection. Such a person must file an election to become a member with the board of administration no later than July 1, 1975; provided, that any such person who is not an employee on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming an employee. In either event, such person must thereupon pay to the retirement system the amount which he and his employer would have contributed had he not been so excluded plus interest which

would have accumulated thereon. All benefits payable thereafter to such person shall be the same as if such person had never filed an election not to be a member;

(7) persons directly appointed by the governor, who do not file with the board of administration an election in writing to become members;

(8) persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit in such other system for service, it being the purpose of this section to prevent a person from receiving credit for the same service in two (2) retirement systems supported wholly or in part by public funds, and no person shall receive such credit under any circumstances; any member of the retirement system who, because of his employment by the state, shall be required to become a member of any such other systems, shall be considered solely for the purposes of making normal contributions as permanently separated from service; the accumulated contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 68-2301; employer contributions on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the employer; for the purpose of this section, persons receiving pensions, retirement allowances or other payments, from any source, on account of employment other than as an employee as defined in this act, shall not be considered, because of such receipt, members of any other retirement or pension system;

(9) court commissioners or appointive members of any board or commission who serve the state or any contracting employer intermittently and who are paid on a per diem basis;

(10) persons who become employees after they have reached their sixtieth birthday and have no creditable service in this system, and who do not file with the board of administration an election to become members;

(11) employees of county hospitals or county rest homes in the sixth and seventh class counties unless they elect to file with the board of administration an election in writing to become members.

Section 7. There is a new section to be numbered 68-1603, R.C.M. 1947, which reads as follows:

68-1603. If any part of a member's accumulated normal contributions are refunded pursuant to section 68-1905, he ceases to be a member and all membership service to his credit is canceled. Any person who is retired ceases to be a member.

Section 8. There is a new section to be numbered 68-1604, R.C.M. 1947, which reads as follows:

68-1604. Except as provided in section 68-1605 and 68-1606, time during which a member is absent from compensated employment with an employer shall not be allowed in computing service.

Section 9. There is a new section to be numbered 68-1605, R.C.M. 1947, which reads as follows:

68-1605. Any period of absence from compensated employment with an employer occurring either during a war involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter for one of the following reasons shall be considered as service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits:

- (1) by reason of having been ordered on duty with the armed forces of the United States;
- (2) by reason of voluntary service in said forces or on ships operated by or for the United States government; or
- (3) by reason of direct assignment to the department of war or defense for duties pursuant to the national defense efforts where a leave of absence has been granted by the employer.

Any member so absent shall have the right to contribute to the retirement system, either during his period of absence or upon his return to service, at times and in the manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation at the commencement of his absence. If he does so contribute he shall receive credit for service for such time in the same manner as if he had not been absent from service. Whenever a member elects to continue his contributions the employer shall thereupon contribute an amount equal to what its employer contributions would have been had the member not been absent from service.

Any member so absent shall lose the right to contribute under this section if all of his accumulated normal contributions are refunded pursuant to section 68-1905.

Section 10. There is a new section to be numbered 68-1605.1, R.C.M. 1947, which reads as follows:

68-1605.1. A member with ten (10) years or more of state service credited under this act may at any time prior to retirement make a written election with the board to qualify all or any portion of his active service in the armed forces of the United States for the purpose of calculating retirement benefits up to a maximum of five (5) years if he is not otherwise eligible to receive credit for this same service pursuant to section 68-1605. To qualify this service he must contribute to the retirement fund the amount determined by the board to be due based on his compensation and normal contribution rate as of his eleventh year and as many succeeding years as are required to qualify this service with interest from the date he becomes eligible for this benefit to the date he so contributes. He may not qualify more of this service than he has state service in excess of ten (10) years.

Section 11. There is a new section to be numbered 68-1606, R.C.M. 1947, which reads as follows:

68-1606. Time during which a member is absent from service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment shall be considered as spent in service for the purpose of qualification for retirement benefits or survivorship allowances, but not for the calculation of such benefits.

Section 12. There is a new section to be numbered 68-1607, R.C.M. 1947, which reads as follows:

68-1607. Subject to the provisions of this section, any person who has service with a contracting employer which is not creditable service may convert all or a portion of such service to membership service by filing written notice thereof with the board of administration no later than July 1, 1975; provided that any such person who is not a member on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming a member. In either event, such person must pay to the retirement system the sum of the amount which he and his employer would have contributed during the period of service so converted if the employer had then been a contracting employer and the interest which would have accumulated thereon to the time of such payment; provided, that the employer may pay the employer's portion including accrued interest. Payment may be made in one sum at the time of such filing or on an installment basis thereafter, except that failure to make installment payments of at least ten percent (10%) of compensation in any payroll period thereafter shall forfeit such person's right to make any further installments.

Section 13. There is a new section to be numbered 68-1608, R.C.M. 1947, which reads as follows:

68-1608. Credit for any prior service not previously granted shall be granted to a member upon his filing written notice thereof with the board of administration no later than July 1, 1975; provided, that any such person who is not a member on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming a member and further provided he otherwise has not less than ten (10) years of creditable service of which not less than three (3) years have been as a contributing member of the retirement system. Proper certification of such service must be furnished.

Section 14. There is a new section to be numbered 68-1701, R.C.M. 1947, which reads as follows:

68-1701. Any municipal corporation, county or public agency in the state may become a contracting employer and make all or specified groups of its employees members of the retirement system by a contract entered into between the board and the legislative body of said contracting employer, subject to the provisions of this act. The contract may include any provisions which are consistent with this act and necessary in the administration of the retirement system as it affects the contracting employer and its employees. The approval and termination of the contract shall be subject to the following provisions, in addition to the other provisions of this act.

(1) The legislative body of the contracting employer shall adopt a resolution giving notice of intention to approve the contract and containing a summary of the major provisions of the retirement system. The contract shall not be approved unless the employees proposed to be included in the retirement system adopt the proposal by a majority affirmative vote in a secret ballot. The ballot at such election shall include the summary of the retirement system as set forth in the resolution. The election shall be conducted as prescribed by the legislative body of the contracting employer. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds ($\frac{2}{3}$) of the members of the legislative body, not less than twenty (20) days after the adoption of the resolution or by an ordinance adopted by a majority vote of the electorate of the contracting employer voting thereon.

(2) The contract shall specify that all employees of the contracting employer or such groups of employees as agreed to between the board and the contracting employer shall become members. The groups of employees to be included shall be by departments, duties, age or other similar classifications and not by individual employees. The board shall have the right to disapprove any classification into groups if in its opinion said classification

affects adversely the interest of the retirement system. Membership in the retirement system shall be compulsory for all employees included under the contract.

(3) The contract may be amended in the manner prescribed in this section for the original approval of contracts. Groups of excluded employees may be subsequently included by amendment.

Section 15. There is a new section to be numbered 68-1702, R.C.M. 1947, which reads as follows:

68-1702. Any employee who has continuously been, for a period of at least two (2) years, an employee of a municipal corporation, county or other public agency of this state which is not a contracting employer may advise the legislative body of his employer, in writing, that he wishes to participate in the retirement system. Within thirty (30) days after receipt of such written request, the legislative body shall thereupon adopt the resolution of intention and take such action as provided for in section 68-1701.

Section 16. There is a new section to be numbered 68-1703, R.C.M. 1947, which reads as follows:

68-1703. Should the legislative body of any city, county or public agency having an existing retirement, pension or annuity fund or system, hereafter referred to as the local system, desire to make the members of the local system members of the public employees' retirement system, it may enter into a contract for that purpose with the board of administration in the manner provided in section 68-1701 provided, however, that the employees voting as provided in subsection (1) of section 68-1701 shall be limited to active members of the local system and approval shall require an affirmative vote of two-thirds ($\frac{2}{3}$) of such employees.

All active members of the local system shall become members of the retirement system and shall no longer be members of the local system. The pensions being paid to pensioners or annuitants of the local system on the effective date of the contract shall be continued and paid at their existing rates by the public employees' retirement system. The liability for such pensions shall be computed by the actuary and charged to the contracting employer. All cash and securities held by the local system shall be transferred to the retirement system as of the effective date of the contract and credited to the employer. The value of said securities shall be determined by the board of administration.

The trustees or other administrative head of the local system as of the effective date of the contract shall certify the proportion,

if any, of the funds of the system that represents the accumulated contributions of the active members, and the relative shares of the members as of that date. Such shares shall be charged to the employer and credited to the respective individual accounts of such members in the public employees' retirement system and administered as if said contributions had been made during membership in the retirement system. Any excess of employer credits over charges under this section will be offset, with interest, against future required employer contributions. Any excess of employer charges over credits under this section shall be payable by the contracting employer, with interest, on a monthly basis as specified in the contract.

Section 17. There is a new section to be numbered 68-1704, R.C.M. 1947, which reads as follows:

68-1704. If the contributions required to the retirement system exceed the funds available to a contracting employer from general revenue sources, the contracting employer shall have authority to budget, levy and collect annually a special tax upon the assessable property of the contracting employer in the number of cents per one hundred dollars (\$100) of assessable property as will be sufficient to raise the amount estimated by the legislative body to be required to provide sufficient revenue to meet the obligation of the contracting employer to the retirement system. The rate of taxation may be in addition to the annual rate of taxation allowed by law to be levied by the contracting employer. Any person who is a member or beneficiary of the retirement system on account of the participation of the contracting employer shall have the right to maintain the appropriate action or proceeding to require performance of the duty imposed on the legislative body by this section.

Section 18. There is a new section to be numbered 68-1801, R.C.M. 1947, which reads as follows:

68-1801. The board shall maintain its office in the city of Helena. A quorum of the board shall be three (3) members. The board shall elect one of its members president. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing of retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. The department of administration shall appoint and fix the compensation of the administrator and other necessary employees. The attorney general shall be the legal counsel for the board.

Section 19. There is a new section to be numbered 68-1802, R.C.M. 1947, which reads as follows:

68-1802. The actual and necessary expenses of members of the board shall be reimbursed by the retirement system. Those members of the board who are not members of the retirement system shall be entitled to receive in addition to actual and necessary expenses compensation at the rate of twenty-five dollars (\$25) per day. All expenses of the administration of this act in excess of the amounts provided by the membership fees contributed pursuant to section 68-1904 shall be a charge on the appropriation made from the general fund of the state.

Section 20. There is a new section to be numbered 68-1803, R.C.M. 1947, which reads as follows:

68-1803. (1) The board of administration may establish such rules and regulations as it deems proper for the administration and operation of the retirement system and enforcement of this act, subject to its limitation. The board shall determine who are employees within the meaning of this act. The board shall be the sole authority under this act as to the conditions under which persons may become members and receive benefits under the retirement system. The board shall determine and may modify allowances for service and disability under this act. The board shall establish those uniform rules and regulations as are necessary to determine credit for fractional years of service. The board shall maintain such records and accounts it determines necessary for the administration of this act. Upon the basis of the findings of the actuary pursuant to section 68-1804, the board shall adopt those actuarial tables and those rates of regular interest it determines appropriate to comply with the provisions of this act.

(2) As soon as practical after the close of each fiscal year, the department of administration shall file with the governor a report of its work for that fiscal year. The report shall include a statement as to the accumulated cash and securities in the retirement fund as certified by the state treasurer and the board of investment. The report shall also include the most recent unpublished report of the actuary of the actuarial valuation of the assets and liabilities of the system.

Section 21. There is a new section to be numbered 68-1804, R.C.M. 1947, which reads as follows:

68-1804. The board shall retain on a full-time basis, a competent actuary who is a member of the American academy of actuaries and who is familiar with public systems of pensions. The actuary shall be the technical advisor of the board on matters

regarding the operation of the system. Biennially he shall make an actuarial investigation into the suitability of the actuarial tables used by the system and an actuarial valuation of the assets and liabilities of the retirement system. From time to time, he shall also determine the rate of interest being earned on the retirement fund. He shall report his findings to the board.

Section 22. There is a new section to be numbered 68-1901, R.C.M. 1947, which reads as follows:

68-1901. The retirement fund shall be managed as follows:

(1) The board of administration shall have exclusive control of the administration of the fund except as otherwise provided.

(2) The fund shall be invested by the state board of investments as part of the long-term investment fund.

(3) The department of administration shall deposit monthly in the state treasury all amounts received by it as provided in this act.

(4) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the board of investments as to the investment thereof.

(5) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the fund shall be paid into the fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during that year shall be retained in the fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(6) Except as herein provided, no member and no employee of the department of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains or profits accruing therefrom. And no member or employee of the department directly or indirectly, for himself or as an agent or partner of others, may borrow any of its funds or deposits, nor shall any member or employee in any manner use the same except to make such current and necessary payments as are authorized by the department nor shall any member or employee of the department become an endorser or surety as to or in any manner an obligor for investments for the retirement system.

Section 23. There is a new section to be numbered 68-1902, R.C.M. 1947, which reads as follows:

68-1902. The normal contribution of each member shall be equal to five and seventy-five one hundredths percent (5.75%) of his compensation. The chief administrative officer of each employer shall deduct the contribution from the compensation of each member and remit the total of the contributions to the board. Payment of salaries or wages less the contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

Section 24. There is a new section to be numbered 68-1903, R.C.M. 1947, which reads as follows:

68-1903. Subject to the rules and regulations promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in section 68-1902 for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting employer any additional financial obligation. The board, upon application shall furnish to the member information concerning the nature and amount of additional benefits to be provided by additional contributions.

Section 25. There is a new section to be numbered 68-1904, R.C.M. 1947, which reads as follows:

68-1904. In addition to the contributions elsewhere provided in this act, on July 1 of each year each employer shall contribute on behalf of each member then in its employ a membership fee of one dollar (\$1). These fees together with other moneys appropriated for that purpose shall be used for the purpose of defraying the administrative expense of this act.

Section 26. There is a new section to be numbered 68-1905, R.C.M. 1947, which reads as follows:

68-1905. (1) Except as provided in this section, any member whose service has been discontinued by other than death or retirement shall be paid such part of his accumulated contributions as he requests. If he has ten (10) or more years of creditable service, the amount paid shall include regular interest on the accumulated normal contributions. If he has less than ten (10) years of service and he does not reenter service for a period of five (5) years after such discontinuance, he shall automatically be paid any portion of his total accumulated contributions not previously withdrawn. Upon qualification for any other benefit under this act, a member having any accumulated normal contributions standing to his credit in the retirement fund shall receive

the benefit based upon the creditable service during which such contributions were made. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered service, all or part of his accumulated normal contributions if after a previous discontinuance of service he withdrew all or part of his normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in section 68-1906.

(2) Should the state service of any member, regardless of years of service, be discontinued other than by death or retirement after July 1, 1974, he shall be paid such part of his accumulated contributions, including regular interest thereon, as he requests.

Section 27. There is a new section to be numbered 68-1906, R.C.M. 1947, which reads as follows:

68-1906. Except as otherwise provided in this section, any person who again becomes a member subsequent to the refund of his accumulated normal contributions after a termination of previous membership is considered a new member without credit for any previous membership service, and he may reinstate that membership service by redepositing, within two (2) years of his reentering the retirement system, the sum of the accumulated normal contributions which were refunded to him at the last termination of his membership plus the interest which would have been credited to his account had the refund not taken place. If he makes this redeposit, his membership shall be the same as if unbroken by such last termination. Regardless of whether this redeposit is made, the documents held by the retirement system as executed by the member prior to termination of membership shall be held by the system for the same purposes as prior to termination, and beneficiaries nominated in the documents shall continue unchanged until changed as provided herein.

Section 28. There is a new section to be numbered 68-1907, R.C.M. 1947, which reads as follows:

68-1907. The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent reentry to membership.

Section 29. There is a new section to be numbered 68-2001, R.C.M. 1947, which reads as follows:

68-2001. (1) A member who has attained the age of sixty (60) and completed ten (10) years of creditable service is eligible for service retirement. A member who has attained age sixty-five (65)

is eligible for service retirement regardless of his years of creditable service. A member who has completed thirty (30) years or more of state service is eligible for service retirement regardless of his age.

(2) A member who is not eligible for service retirement but has attained age fifty-five (55) and completed ten (10) years of creditable service is eligible for early retirement.

Section 30. There is a new section to be numbered 68-2002, R.C.M. 1947, which reads as follows:

68-2002. The board shall grant a retirement allowance to any member who has fulfilled the eligibility requirements of section 68-2001 and filed the appropriate written application. The retirement allowance shall commence on the day following the member's last day of membership service or on the first day of the month in which his application is filed with the board, whichever is later.

Section 31. There is a new section to be numbered 68-2003, R.C.M. 1947, which reads as follows:

68-2003. The annual amount of retirement allowance payable to a member following his service retirement is the sum of (1), (2) and (3) as follows:

(1) an annuity which is the actuarial equivalent of his accumulated additional contributions on the day his retirement allowance commences;

(2) one sixty-fifth (1/65) of his final compensation multiplied by the number of years of his creditable service;

(3) any retirement allowance payable under section 68-2004.

Section 32. There is a new section to be numbered 68-2004, R.C.M. 1947, which reads as follows:

68-2004. The annual amount of retirement allowance payable to a person who was a member on July 1, 1973, shall be increased by the excess, if any, of the greater of (1) or (2) as follows over subsection (2) of section 68-2003;

(1) the sum of a pension for prior service equal to one sixty-fifth (1/65) of his final compensation multiplied by the number of years of his prior service, an annuity which is the actuarial equivalent of his accumulated normal contributions with regular interest to the day his retirement allowance commences, and a pension for membership service equal to such annuity;

(2) if the member attained age seventy (70) in service, the

lesser of four hundred eighty dollars (\$480) or one-half ($\frac{1}{2}$) of his final compensation.

Section 33. There is a new section to be numbered 68-2005, R.C.M. 1947, which reads as follows:

68-2005. The annual amount of retirement allowance payable to a member following his early retirement is the actuarial equivalent of the accrued portion of the service retirement allowance which would have been payable to him commencing at age sixty (60) pursuant to section 68-2003.

Section 34. There is a new section to be numbered 68-2101, R.C.M. 1947, which reads as follows:

68-2101. (1) A member who has not reached seventy (70) years of age but has become disabled for duty-related reasons, as defined in subsections (3) and (4) of this section, is eligible for disability retirement.

(2) A member who is not eligible for service or early retirement but has completed ten (10) years of creditable service and has become disabled while in active service for other than duty-related reasons, as defined in subsections (3) and (4) of this section, is eligible for disability retirement.

(3) "Disabled" means unable to perform his duties by reason of physical or mental incapacity.

(4) "Duty-related" means as a result of an injury or disease arising out of or in the course of his employment with an employer.

(5) "Injury" means a tangible happening of a traumatic nature from an unexpected cause, or unusual strain, resulting in either external or internal physical harm, and such physical conditions as result therefrom, and excluding disease not traceable to injury.

(6) The board shall determine whether a member has become disabled and whether a disabled member became disabled for duty-related reasons. In the discharge of its duty regarding such determinations, the board, any member thereof or any duly authorized representative of the board shall have power to order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a claim for disability retirement. The board shall secure medical service and advice necessary to carry out the purposes of this section and of sections

68-2201 and 68-2202 and shall pay for those medical services and advice compensation the board deems reasonable.

(7) A member eligible for early retirement may conditionally waive such eligibility by written application, such waiver to be effective only upon approval by the board of his application for disability retirement.

Section 35. There is a new section to be numbered 68-2102, R.C.M. 1947, which reads as follows:

68-2102. The board shall grant a retirement allowance to any member who has fulfilled the eligibility requirements of section 68-2101 and duly filed the appropriate written application. An application may be filed on a member's behalf by the head of the office or department in which the member is or was last employed or by any other person on behalf of the member, or the board upon its own motion may make the application. Application must be made within four (4) full months after the member's discontinuance of service unless the member is disabled continuously from the date of discontinuance of service to the date of the application.

The retirement allowance payable to a member who has become disabled shall commence on the day following the member's last day of membership service.

Section 36. There is a new section to be numbered 68-2103, R.C.M. 1947, which reads as follows:

68-2103. The annual amount of retirement allowance payable to a member eligible for disability retirement for duty-related reasons is fifty percent (50%) of his final compensation; provided, however, that the annual amount of retirement allowance shall be twenty-five percent (25%) of final compensation for any period during which the member has been awarded compensation by the workmen's compensation division, whether or not such compensation is received in periodic payments or in a lump sum; provided further, that the annual amount of retirement allowance shall revert to fifty percent (50%) of final compensation at the end of such period.

Section 37. There is a new section to be numbered 68-2104, R.C.M. 1947, which reads as follows:

68-2104. The annual amount of retirement allowance payable to a member eligible for disability retirement for other than duty-related reasons is the sum of (1), (2) and (3) as follows:

(1) an annuity which is the actuarial equivalent of his accumulated additional contributions on the day his retirement allowance commences;

(2) an annuity which is the actuarial equivalent of his accumulated normal contributions with normal interest to the day his retirement allowance commences;

(3) if, in the opinion of the board, the disability is not due to intemperance, willful misconduct or violation of law on the part of the member, a pension which is the lesser of (a) or (b) as follows:

(a) a pension which, together with the annuity provided under (2), shall make the retirement allowance equal to ninety percent (90%) of one sixty-fifth (1/65) of his final compensation multiplied by his years of creditable service;

(b) a pension equal to twenty-five percent (25%) of his final compensation.

Section 38. There is a new section to be numbered 68-2201, R.C.M. 1947, which reads as follows:

68-2201. (1) The board may, at its pleasure, require the recipient of a retirement allowance because of disability to undergo medical examination. The examination shall be made by a physician or surgeon appointed by the board, at the place of residence of the recipient or another place mutually agreed upon. Upon the basis of the examination the board shall determine whether said recipient is unable, by reason of physical or mental incapacity, to perform either the duties of the position held by him when he was retired or the duties proposed to be assigned to him. If the board determines that said recipient is not so incapacitated or if the recipient refuses to submit to medical examination, his retirement allowance shall be canceled.

(2) Any person whose retirement allowance is so canceled shall be reinstated to the position held by him immediately before his retirement or to a position in the same classification with duties within his capacity, if he had been an employee of the state or of the university. If he had been an employee of a contracting employer, the board shall notify the proper official of the contracting employer that the retirement allowance has been canceled and that the former employee is eligible for reinstatement to duty. The fact that he was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

(3) If any person whose retirement allowance is so canceled is not reemployed in a position subject to the retirement system, his service shall be deemed to be discontinued coincident with his retirement allowance for the purposes of section 68-1905.

Section 39. There is a new section to be numbered 68-2202, R.C.M. 1947, which reads as follows:

68-2202. Should the recipient of a retirement allowance because of disability engage in a gainful occupation during any month other than as an employee as defined in section 68-1503, the amount of his pension for that month shall be reduced to an amount which, when added to the compensation earned by him in that occupation, shall not exceed the amount of his monthly compensation at the time of his retirement.

Section 40. There is a new section to be numbered 68-2203, R.C.M. 1947, which reads as follows:

68-2203. (1) The retirement allowance of a member who so elects shall be converted, in lieu of all other benefits under this act, into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance is a reduced amount payable during the member's lifetime with a subsequent benefit as follows:

(a) Option 1—a death benefit to the member's beneficiary equal to the excess, if any, of the member's accumulated contributions with regular interest to the day his retirement allowance commenced over the total of his retirement allowance payments.

(b) Option 2—a continuation of the reduced retirement allowance during the lifetime of his named contingent annuitant.

(c) Option 3—a continuation of one-half (1/2) of the reduced retirement allowance during the lifetime of his named contingent annuitant.

(d) Option 4—an actuarial equivalent benefit based on the life of a single designated beneficiary.

(e) Option 5—such other actuarially equivalent benefit as shall be approved by the board.

(2) Election of any optional retirement allowance shall be by written application filed prior to the first payment of the regular retirement allowance. The contingent annuitant named by the member must have an insurable interest in the life of the member.

(3) If either the member or his contingent annuitant should die before the member has received the first payment under option 2 or 3, the election of such option shall automatically be canceled.

(4) If a member dies after retirement and within thirty (30) days from the date his election or changed election of an optional retirement allowance is received by the board, then said

election is void and of no effect, and the death shall be considered as that of a member before retirement.

Section 41. There is a new section to be numbered 68-2204, R.C.M. 1947, which reads as follows:

68-2204. Any person receiving a retirement allowance who becomes an employee shall be considered reinstated from retirement and his retirement allowance shall be canceled. Upon subsequent retirement he shall be entitled to receive a recalculated benefit as provided in section 68-2003. Such recalculated benefit shall be based on his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his reemployment. Except as otherwise expressly provided by law, he shall receive the benefit of provisions enacted subsequent to his initial retirement only if he accrues at least two (2) years of creditable service subsequent to his reinstatement and then only with respect to such creditable service.

Section 42. There is a new section to be numbered 68-2301, R.C.M. 1947, which reads as follows:

68-2301. The board shall grant a death benefit to the beneficiary of any member or former member who dies in any of the following statuses:

- (1) while in service;
- (2) within four (4) months after the discontinuance of service but before retirement;
- (3) while a recipient of a retirement allowance because of disability, if such allowance has been in effect less than four (4) months;
- (4) while disabled, as defined in section 68-2101, if he has been continuously so disabled from the discontinuance of his service but he is not receiving a retirement allowance because of the disability.

Section 43. There is a new section to be numbered 68-2302, R.C.M. 1947, which reads as follows:

68-2302. The amount of death benefit is the sum of (1) and (2), as follows:

- (1) the member's accumulated contributions, together with regular interest on the accumulated normal contributions to the date of the member's death;
- (2) an amount equal to one-twelfth (1/12) of the compensation received by the member during the last twelve (12) months

of such compensation multiplied by the smaller of six (6) or the number of years of his creditable service; provided, however, that this portion of the death benefit is not payable if the board receives a certification from the workmen's compensation division of the state of Montana that it is paying compensation because the member's death resulted from injury or disease arising out of or in the course of employment.

Section 44. There is a new section to be numbered 68-2303, R.C.M. 1947, which reads as follows:

68-2303. A member or his beneficiary after his death may elect to have the death benefit paid in an actuarially equivalent form subject to such rules and regulations as the board may adopt. Election of an optional death benefit shall be by written application.

Section 45. There is a new section to be numbered 68-2304, R.C.M. 1947, which reads as follows:

68-2304. A beneficiary eligible to receive a death benefit may elect a survivorship allowance instead if all of the following conditions are met:

- (1) the member on behalf of whom the death benefit is payable was eligible for service retirement or early retirement;
- (2) the beneficiary is a natural person of legal age with an insurable interest in the deceased at the time of his death;
- (3) the beneficiary elects the survivorship allowance within ninety (90) days of receipt of notice from the board that he is eligible to receive the death benefit. Election shall be by written application.

Section 46. There is a new section to be numbered 68-2305, R.C.M. 1947, which reads as follows:

68-2305. The annual amount of survivorship allowance payable to a member's beneficiary shall be the same as the optional retirement allowance would have been if the member had retired immediately prior to his death after having elected an option 4 retirement allowance with the beneficiary as the contingent annuitant.

Section 47. There is a new section to be numbered 68-2401, R.C.M. 1947, which reads as follows:

68-2401. (1) The beneficiary of a member shall be such person as the member shall so designate in the appropriate written application. A member may revoke such designation and name a dif-

ferent beneficiary by filing a revised written instrument with the board. If no living beneficiary is designated, the estate of the member shall be the beneficiary. If the estate would not be probated but for the amount due from the retirement system, all of the amount due, including retirement allowances accrued but not received prior to death, shall be paid directly without probate to the surviving next of kin of the deceased, or the guardians of said survivor's estate, share and share alike, payment to be made in the same order in which the following groups are listed:

- (a) husband or wife, or
- (b) children, or
- (c) father and mother, or
- (d) grandchildren, or
- (e) brothers and sisters, or
- (f) nieces and nephews.

(2) No payment shall be made to persons included in any of said groups if at the date of payment there be living persons in any of the groups preceding it, as listed. Payment shall be made upon receipt from said persons of an affidavit, upon a form supplied by the retirement board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated. The payment shall be in full and complete discharge and acquittance of the board and system on account of said death.

(3) If a member's beneficiary cannot be found within ninety (90) days of the member's death or if the estate of the member is his beneficiary, the board in its discretion may pay all or a portion of the death benefit to the undertaker who conducted the funeral of the member or to any person or organization who paid the undertaker; provided, however, the amount so paid by the board shall not exceed the funeral expenses or the portion of such expenses paid by the person or organization respectively, all as evidenced by the sworn itemized statement of the undertaker and by other documents the board may require. The payment shall be in full and complete discharge and acquittance of the board and system up to the amount so paid, anything in this act to the contrary notwithstanding.

Section 48. There is a new section to be numbered 68-2402, R.C.M. 1947, which reads as follows:

68-2402. If any benefit from the system not to exceed five hundred dollars (\$500) is payable to a minor who has no guardian

of his estate, the benefit may be paid to the person entitled to the custody of a minor to hold for the minor upon execution and filing with the board of a written statement by such person that the total estate of the minor does not exceed one thousand dollars (\$1,000) in value. The payment shall be in full and complete discharge and acquittance of the board and system on account of said benefit. The person shall account to the minor for the money when the minor reaches the age of majority.

Section 49. There is a new section to be numbered 68-2501, R.C.M. 1947, which reads as follows:

68-2501. A retirement allowance or survivorship allowance granted under the provisions of this act shall be payable in monthly installments, except that the board at its discretion may convert payments of less than twenty dollars (\$20) per month to larger periodic payments which are the actuarial equivalent of such smaller payments, but which occur less frequently. If payments of at least twenty dollars (\$20) per year are not so payable, the payment may be commuted into a single sum. A smaller pro rata amount may be paid for part of a month when the retirement allowance begins after the first day of the month or ends before the last day of the month.

Section 50. There is a new section to be numbered 68-2502, R.C.M. 1947, which reads as follows:

68-2502. The right of a person to a retirement allowance or any other benefit under this act and the moneys in the fund created under this act shall not be subject to execution, garnishment, attachment, state or municipal taxes, or any other process whatsoever, and shall be unassignable except as in this act specifically provided.

Section 51. There is a new section to be numbered 68-2503, R.C.M. 1947, which reads as follows:

68-2503. If it shall be impracticable for the board of administration to determine from the records the length of service, the compensation or the age of any members, or if any member refuses or fails to give the board a statement of his state service, his compensation or his age, the said board may estimate, for the purposes of this act, such length of service, compensation or age.

Section 52. There is a new section to be numbered 68-2504, R.C.M. 1947, which reads as follows:

68-2504. (1) Each employer shall contribute to the cost of benefits under the system. The amount of the employer contributions shall be computed by applying to member's compensation

the sum of the current service contribution rate and the unfunded liability contribution rate. The sum of these rates shall be four and six-tenths percent (4.6%) from July 1, 1973, to June 30, 1975, and four and nine-tenths percent (4.9%) from July 1, 1975, and thereafter.

(2) The actuary shall determine the current service contribution rate to be that level percentage of the present value of the future compensation of the average new member entering the system which equals the then present value of the excess of all prospective benefits in respect of such member over the member's own normal contributions.

(3) The actuary shall determine the minimum unfunded liability contribution rate to be that level percentage of the present value of the prospective compensation of all members for the forty (40) year period following the date of the determination which is equal to the unfunded liability on that date. The unfunded liability at any time is the excess of the present value of all future benefits payable in respect of all persons then entitled to benefits under the system over the sum of the retirement fund and the present values of the future current service contributions and normal contributions payable in respect of all such persons.

Section 53. There is a new section to be numbered 68-2505, R.C.M. 1947, which reads as follows:

68-2505. (1) No later than the tenth day of each month, each department, board, commission, bureau or other agency of the state shall certify to the state auditor all contributions required of such unit and to its employees under this act on the basis of compensation paid during the previous month, including any contributions payable with respect to members absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for such contributions. The warrant shall be drawn to the credit of the retirement fund on the funds appropriated to that unit.

(2) Every state employer shall include in his budget and request for legislative appropriations an amount necessary to defray the state's part of the costs of this act for employees in their respective departments, and to the end that the legislature may make definite appropriation for the cost incurred by each employer whose employees are within the retirement system created by this act.

Section 54. There is a new section to be numbered 68-2506, R.C.M. 1947, which reads as follows:

68-2506. Any fund out of which payments are made under

the provisions of this act may be reimbursed to the extent of such payments by transfer of a sufficient sum for such reimbursement from another fund or funds under the control of the same disbursing officer. The disbursing officer shall certify to the state auditor amount or amounts to be thus transferred, the fund or funds from and to which the transfer is to be made, and the auditor shall thereupon make the transfer as directed in the certificate.

Section 55. There is a new section to be numbered 68-2507, R.C.M. 1947, which reads as follows:

68-2507. Between the first and twentieth day of each month, each contracting employer shall remit to the public employees' retirement system all contributions required of the employer and its employees under this act on the basis of compensation paid during the previous month. These remittances shall be accompanied by such reports as are required by rules of the board.

Section 56. There is a new section to be numbered 68-2508, R.C.M. 1947, which reads as follows:

68-2508. This act shall be valid and effective despite any provisions in the state budget act to the contrary.

Section 57. There is a new section to be numbered 68-2509, R.C.M. 1947, which reads as follows:

68-2509. If more or less than the correct amount of contribution required by this act of a member, the state or a contracting employer is or has been paid, proper adjustment shall be made in connection with the subsequent payments, or such adjustments may be made by direct cash payments between the member, state or contracting employer in connection with whom the error was made, and the board. Adjustments to correct any other errors in payments to or by the board of administration may be made in the same manner.

Section 58. There is a new section to be numbered 68-2510, R.C.M. 1947, which reads as follows:

68-2510. (1) A person whose compensation is paid either fully or in part from federal funds, but who is not subject to the federal retirement system, is considered an employee and is entitled to all benefits and is required to make all employee contributions under the retirement system based upon the full salary received by such employee, including that portion of salary paid from federal funds.

(2) Each member of the Montana army and air national

guard is considered an employee. Any such person who was an employee on July 1, 1961, or prior thereto and who has filed with the board an election not to become a member may at any time, while he is an employee, file with the board an election to become a member and receive credit for prior service under the provisions of section 68-1608.

Section 59. There is a new section to be numbered 68-2511, R.C.M. 1947, which reads as follows:

68-2511. (1) For the purpose of this section, "system" means the public employees' retirement system of Montana or the teachers' retirement system of the state of Montana.

(2) Upon transfer of a person from being an employee under one system to being an employee in the other, there shall be transferred service credits, both prior and membership, as have not been forfeited by withdrawal, unless the forfeited credits shall have been reinstated as provided by law. The amounts transferred shall be determined by the boards of the systems by mutual agreement and be certified by the system from which the employee transfers. Any person who is concurrently employed by employers under both systems shall be entitled to establish credits or equities in each of the systems in accordance with and to the extent set forth in this act.

(3) Eligibility of any such person for a retirement allowance, death benefit or refund of contributions shall be governed by the provisions of the act creating the system to which the person last made contributions based upon the entire length of service for which he shall have been granted credit under both systems.

Section 60. There is a new section to be numbered 68-2512, R.C.M. 1947, which reads as follows:

68-2512. The chief administrative officer of each employer shall furnish monthly reports to the board of administration showing any changes in status during the preceding month of the employer's members resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The chief administrative officer shall furnish such additional information concerning the members as the board may require in the administration of the retirement system, including such services of the employer's office and departments as the board may request in connection with claims by members for benefits under the system.

Section 61. There is a new section to be numbered 68-2513, R.C.M. 1947, which reads as follows:

68-2513. (1) "Index" for purposes of this section shall mean,

for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959=100) compiled by the bureau of labor statistics, United States department of labor, or successor agency.

(2) Effective July 1, 1973, every service or disability retirement allowance then payable to a retired member or to his beneficiary shall be increased by a percentage equal to the lesser of one-half ($\frac{1}{2}$) of the percentage increase in the index for 1972 from the index for 1970 or the index for 1972 from the index for the calendar year preceding the effective date of retirement of the member.

(3) Effective July 1, 1973, every survivorship annuity then payable to a member's beneficiary shall be increased by a percentage equal to the lesser of one-half ($\frac{1}{2}$) of the percentage increase in the index for 1972 from the index for the calendar year 1970 or for the index for 1972 from the index for the calendar year preceding the date of death of the deceased member.

Section 62. There is a new section to be numbered 68-2514, R.C.M. 1947, which reads as follows:

68-2514. All benefits conferred upon members of the public employees' retirement system prior to the effective date of this act shall be retained for all person who are members of the system on the effective date of this act.

Section 63. Sections 68-101, 68-102, 68-201, 68-202, 68-203, 68-301, 68-302, 68-303, 68-401 through 68-405, 68-501, 68-601, 68-602, 68-603, 68-701 through 68-710, 68-801, 68-802, 68-901, 68-902, 68-1001 through 68-1005, 68-1101, 68-1201 and 68-1301 through 68-1320, R.C.M. 1947, are repealed.

Approved: March 15, 1973.

CHAPTER NO. 324

An Act Providing for Notification of Nontenure Teachers Regarding Their Election or Termination for the Following Year.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The trustees shall provide written notice to all nontenure teachers who have been reelected by the first day of April. Any nontenure teacher who does not receive notice of reelection or termination shall be automatically reelected for the ensuing school fiscal year. Any nontenure teacher who receives notification of his reelection for the ensuing school fiscal year